

## Message Text

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ACTION IO-11

INFO OCT-01 ARA-06 EUR-12 ISO-00 AF-06 EA-07 NEA-10

CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 SAM-01 SAB-01 SAJ-01

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FM USMISSION USUN NY

TO SECSTATE WASHDC 5788

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PANAMA

AMEMBASSY PARIS

C O N F I D E N T I A L USUN 0506

E.O. 11652: GDS

TAGS: UN, CN

SUBJ: THE VETO IN THE SECURITY COUNCIL

1. SUMMARY. THE CONCLUDING SECURITY COUNCIL MEETING ON THE COMOROS FEBRUARY 6 PRODUCED PLAIN WARNING OF A FUTURE NON-ALIGNED EFFORT TO TAKE AWAY THE VETO WHEN THE UNITED STATES, UK, OR FRANCE IS INVOLVED IN A DEFENDING POSITION AND THE COUNCIL PRESIDENCY IS IN UNFRIENDLY HANDS.

2. DETAILS. IN THE COMORIAN CASE, BENIN AND LIBYA WAITED UNTIL AFTER FRANCE HAD CAST A NEGATIVE VOTE ON THE NON-ALIGNED RESOLUTION CONCERNING THE COMOROS AND THE PRESIDENT, AMBASSADOR MOYNIHAN, HAD ANNOUNCED THAT THE RESOLUTION HAD FAILED OF ADOPTION OWING TO THE NEGATIVE VOTE OF A PERMANENT MEMBER (THE VOTE WAS 11-1(FRANCE)-3(US, UK, ITALY)). APPARENTLY THE NON-ALIGNED MEMBERS OF THE COUNCIL HAD DECIDED TO STATE "RESERVATIONS" AS TO FRANCE'S RIGHT TO PARTICIPATE IN THE VOTE UNDER ARTICLE 27(3) OF THE CHARTER (A "PARTY" TO A "DISPUTE" UNDER "CHAPTER VI" IS NOT ENTITLED TO VOTE). PRESUMABLY THEY SOUGHT TO AVOID  
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MAKING A FORMAL CHALLENGE AND SEEKING A RULING BECAUSE THEY

FEARED THAT, WITH THE UNITED STATES IN THE CHAIR, A RULING WOULD LIKELY SUPPORT FRANCE'S RIGHT TO PARTICIPATE IN LINE WITH THE COUNCIL'S PRECEDENTS.

3. IN THE STATEMENTS OF RESERVATIONS ON FRANCE'S PARTICIPATORY RIGHTS, AMBASSADOR BOYD OF PANAMA DEMONSTRATED A CLEAR INTENT TO INVOKE THE CHARTER'S POTENTIAL BAR TO VOTING AT A FUTURE TIME OF NON-ALIGNED SELECTION. BOTH THIS ELEMENT AND HIS DESIRE TO AVOID AN "ADVERSE" MOYNIHAN RULING IN THE COMORIAN CASE ARE REFLECTED IN HIS STATEMENT THAT QUOTE MR. PRESIDENT, AT THIS TIME WE ARE NOT ASKING YOU FOR ANY CLARIFICATION BECAUSE, IN ANY CASE, THAT SHOULD HAVE BEEN PROVIDED BEFORE THE VOTE. BUT I THINK IT IS APPROPRIATE TO INVITE ALL THE MEMBERS OF THE COUNCIL AND THE UNITED NATIONS JURISTS TO STUDY THIS CASE VERY CAREFULLY BECAUSE THE DAY WHEN A POWER WHICH IS A PERMANENT MEMBER OF THE SECURITY COUNCIL BECOMES A PARTY TO A DISPUTE OR AN ACCUSATION BY ANOTHER MEMBER STATE THEN I SHALL HAVE SERIOUS DOUBTS ABOUT WHETHER OR NOT THAT RIGHT OF VETO CAN BE EXERCISED. END QUOTE.

4. FOLLOWING RENEWED FRENCH DEFENSE OF HER RIGHT TO VOTE, THE PRESIDENT (MOYNIHAN) STATED THAT, AFTER CONSULTING THE SECRETARIAT, BEGIN QUOTE IT IS PERHAPS SUFFICIENT FOR ME SIMPLY TO SAY THAT, HAD THE QUESTION OF THE RIGHT OF FRANCE TO VOTE BEEN RAISED IN A TIMELY WAY, WHICH IS TO SAY BEFORE THE VOTE, THE PRESIDENT OF THE COUNCIL BELIEVES THAT THE RIGHT OF FRANCE TO PARTICIPATE IN THE VOTING WOULD HAVE BEEN SUSTAINED. END QUOTE THIS ASPECT OF THE COUNCIL PROCEEDING CAME TO A CLOSE WITH A PROCEDURALLY CORRECT TANZANIAN STATEMENT THAT THE PRESIDENT'S APPRAISAL HAD NOT CONSTITUTED A FORMAL RULING, AND THE PRESIDENT'S STATEMENT THAT BEGIN QUOTE THE OVERWHELMING PRESUMPTION OF OUR PROCEEDINGS MUST BE THAT IT BEGIN BRACKETS FRANCE'S PARTICIPATION IN THE VOTE END BRACKETS WAS PROPER, AND NO SHADOW OF IMPROPRIETY FALLS ON THE SPECIFIC ACTION. END QUOTE.

5. WE UNDERSTAND THAT STAFF-LEVEL MEMBERS OF THE ROMANIAN DELEGATION INITIALLY PROMPTED NON-ALIGNED COUNCIL MEMBERS TO RAISE THE ARTICLE 27(3) QUESTION AS A FORMAL CHALLENGE. WE ARE TOLD, ALSO, THAT THE USSR ACTED BEHIND THE SCENES TO DISSUADE

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LIBYA FROM MAKING A FORMAL CHALLENGE, THUS REFLECTING TRADITIONAL SOVIET SENSITIVITY TO EFFORTS TO LIMIT THE VETO. IT HARDLY NEEDS SAYING THAT WE WOULD BE UNWISE TO RELY ON EFFECTIVE SOVIET ASSISTANCE IN A FUTURE CASE, E.G., IN A FUTURE PANAMANIAN COMPLAINT ON THE CANAL.

6. WE MAINTAINED THE FULLEST COOPERATION WITH THE BRITISH AND FRENCH DURING THE COMORIAN DEBATE, FROM THE FRAMING OF THE AGENDA

ITEM'S ("THE SITUATION IN THE COMOROS", RATHER THAN  
"COMPLAINT CONCERNING THE COMOROS") THROUGH OUR SCENARIO  
AND PROPOSED RULING BY THE COUNCIL PRESIDENT IN THE EVENT  
OF FORMAL CHALLENGE. THESE MATERIALS POUCHED BAKER,  
IO, AND STOWE, L.  
MOYNIHAN

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